

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

WAYMO LLC, )  
Plaintiff, )  
vs. ) Case No.  
UBER TECHNOLOGIES, INC.; ) 3:17-cv-000939-WHA  
OTTOMOTTO LLC; OTTO TRUCKING, )  
INC., )  
Defendants. )  
\_\_\_\_\_ )

HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY

VIDEOTAPED DEPOSITION OF KRISTINN GUDJONSSON  
Palo Alto, California  
Friday, July 28, 2017  
Volume I

Reported by:  
CARLA SOARES  
CSR No. 5908  
JOB No. 2665814

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1 of these communications with the legal department, 10:31:10  
2 how are those requests made? Is that in writing or  
3 verbal or some other fashion?

4 A Not verbal.

5 Q So there's a written request? 10:31:24

6 A Yes. Either written, or we have, like, an  
7 intake form where we can -- you can submit an  
8 incident to us, or written in an e-mail. It would  
9 be either one of those two.

10 Q What information is contained in those 10:31:45  
11 types of requests?

12 A It varies.

13 MR. BAKER: Go ahead.

14 THE WITNESS: It varies.

15 BY MR. TAKASHIMA: 10:31:52

16 Q Do you recall any of the information  
17 that's usually set forth in those requests?

18 MR. BAKER: You can answer that yes or no,  
19 Kris.

20 THE WITNESS: Yes. 10:32:02

21 (Question not answered per instruction of counsel):

22 BY MR. TAKASHIMA:

23 Q What information do you recall?

24 MR. BAKER: I'm going to object as  
25 attorney-client privileged; instruct the witness not 10:32:11

1 to answer. 10:32:12

2 BY MR. TAKASHIMA:

3 Q Do requests to initiate investigations set  
4 up parameters for the investigation?

5 MR. BAKER: You can answer that yes or no. 10:32:26

6 THE WITNESS: Sorry. Can you repeat that  
7 question?

8 BY MR. TAKASHIMA:

9 Q Sure. I'll rephrase that question.

10 Do requests to initiate an investigation 10:32:37  
11 set out the scope of that investigation?

12 MR. BAKER: You can answer that yes or no.

13 THE WITNESS: Yes.

14 BY MR. TAKASHIMA:

15 Q Do requests to initiate an investigation 10:32:48  
16 state the reasons for the investigation?

17 MR. BAKER: You can answer that yes or no.

18 THE WITNESS: Depends.

19 BY MR. TAKASHIMA:

20 Q Sometimes? 10:32:57

21 A Yes.

22 Q And sometimes not?

23 A Yes.

24 Q What information about the scope of the  
25 investigation is contained in requests to initiate 10:33:21

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1 Q You took part in an investigation of 11:07:32  
2 Anthony Levandowski last year, correct?  
3 A Yes.  
4 Q Have you done any work this year in  
5 connection with that investigation? 11:07:38  
6 A Yes.  
7 Q When this year?  
8 A Early this year.  
9 Q January?  
10 A Last work was not long before the 11:07:59  
11 deposition -- the declaration from Gary Brown was  
12 submitted.  
13 REDACTED  
14 REDACTED  
15 REDACTED 11:08:20  
16 MR. BAKER: You can answer that yes or no,  
17 Kris.  
18 THE WITNESS: Yes.  
19 (Question not answered per instruction of counsel):  
20 BY MR. TAKASHIMA: 11:08:24  
21 REDACTED  
22 MR. BAKER: And I'm going to object on the  
23 grounds of attorney-client privilege and instruct  
24 the witness not to answer.  
25 /// 11:08:30

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1 THE VIDEO OPERATOR: We're now going back 11:11:01  
2 on the record, and the time is 11:11.  
3 (Question not answered per instruction of counsel):  
4 BY MR. TAKASHIMA:  
5 Q<sup>REDACTED</sup> 11:11:07  
6 REDACTED  
7 REDACTED  
8 MR. BAKER: Objection. Attorney-client  
9 privileged. I'm going to instruct the witness not  
10 to answer. 11:11:15  
11 MR. TAKASHIMA: You're claiming privilege  
12 over REDACTED  
13 MR. BAKER: We're claiming privilege over  
14 REDACTED Yes.  
15 MR. TAKASHIMA: Including REDACTED 11:11:28  
16 REDACTED  
17 MR. BAKER: You have my objection,  
18 Counsel.  
19 MR. TAKASHIMA: Okay. I'm just trying to  
20 clarify the record. 11:11:34  
21 MR. BAKER: I'm sorry. What was that?  
22 MR. TAKASHIMA: I'm just trying to clarify  
23 the record.  
24 MR. BAKER: Well, my objection is on the  
25 record. 11:11:41

1 MR. TAKASHIMA: Thank you. 11:11:41

2 Q REDACTED

3 REDACTED

4 REDACTED

5 A I'm sorry. Could you repeat the question? 11:12:09

6 Q REDACTED

7 REDACTED

8 REDACTED

9 MR. BAKER: You can answer that yes or no,

10 Kris. 11:12:26

11 THE WITNESS: Yes. Sorry. REDACTED

12 REDACTED Or you said --

13 BY MR. TAKASHIMA:

14 Q REDACTED

15 A Sorry. Yes. Yes. 11:12:37

16 Q REDACTED

17 MR. BAKER: Can you repeat?

18 (Question not answered per instruction of counsel):

19 BY MR. TAKASHIMA:

20 Q REDACTED 11:12:44

21 REDACTED

22 MR. BAKER: Objection. Attorney-client

23 privilege. I'm going to instruct the witness not to

24 answer.

25 /// 11:12:50

1 talk about it. 11:31:52

2 THE WITNESS: Okay.

3 THE VIDEO OPERATOR: We are now going off

4 the record, and the time is 11:32.

5 (Recess, 11:32 a.m. - 11:33 a.m.) 11:31:55

6 THE VIDEO OPERATOR: We're now going back

7 on the record, and the time is 11:33.

8 MR. BAKER: Do you want to ask your

9 question again, Counsel?

10 MR. TAKASHIMA: I do. 11:33:28

11 Q Do you recall what information you put

12 into the tracking document?

13 A Yes.

14 (Question not answered per instruction of counsel):

15 Q What was that information? 11:33:33

16 MR. BAKER: And we have claimed privilege

17 and work product over the tracking document, so I'll

18 instruct the witness not to answer.

19 BY MR. TAKASHIMA:

20 Q Did the information you entered into the 11:33:49

21 tracking document include information about the

22 scope of your investigation?

23 A Yes.

24 Q Did the information you included in the

25 tracking document include the reasons for the 11:33:59

1 investigation? 11:34:01

2 A Yes.

3 (Question not answered per instruction of counsel):

4 Q Did the information you put into the

5 tracking document include the basis for what you 11:34:09

6 described as reasonable suspicion concerning

7 Mr. Levandowski?

8 MR. BAKER: Hold on one second.

9 I'm going to instruct the witness not to

10 answer at this point. 11:34:33

11 Again, the tracking document we've claimed

12 privilege and work product over, so I don't want the

13 witness to testify about what is in the tracking

14 document.

15 BY MR. TAKASHIMA: 11:34:42

16 Q Okay. What did you do next in the

17 investigation after you created the tracking

18 document?

19 A Waited until the laptop arrived.

20 Q And how long did you wait? 11:34:59

21 A I'm not sure exactly how long, but it was

22 at least a few weeks.

23 Q That's for both laptops; is that correct?

24 A They arrived at the same time. Yes.

25 Q Okay. Who sent you the laptops? 11:35:19

1 looking for anything other than unusual user 12:09:57  
2 behavior?  
3 A Yes.  
4 Q What else were you looking for?  
5 A I was supplied REDACTED 12:10:02  
6 Q Who gave you that REDACTED  
7 A It came from the lawyers and Bailey.  
8 Q Did you REDACTED  
9 REDACTED  
10 A Yes. 12:10:26  
11 (Question not answered per instruction of counsel):  
12 Q What were REDACTED  
13 MR. BAKER: Objection. Attorney-client  
14 privileged and work product. I'm going to instruct  
15 the witness not to answer. 12:10:35  
16 BY MR. TAKASHIMA:  
17 Q You're abiding by that instruction?  
18 A Yes.  
19 Q REDACTED  
20 MR. BAKER: Hold on one second, Kristinn. 12:10:45  
21 THE WITNESS: Okay.  
22 MR. BAKER: You can give a number.  
23 THE WITNESS: Okay. I don't remember.  
24 Ballpark?  
25 /// 12:11:15

1 preliminary early findings. 13:49:37

2 Q And at that first point that you reported

3 back, what were your preliminary findings?

4 A That we could not access the G laptop, and

5 that the Windows machine had been reimaged. 13:49:52

6 Q Anything else?

7 A I don't remember.

8 Q Did you get any feedback from the people

9 you spoke with?

10 MR. BAKER: You can answer that yes or no. 13:50:08

11 THE WITNESS: Yes.

12 (Question not answered per instruction of counsel):

13 BY MR. TAKASHIMA:

14 Q Okay. What did they tell you?

15 MR. BAKER: Are you asking him about what 13:50:11

16 the lawyer told him?

17 MR. TAKASHIMA: Yes.

18 MR. BAKER: Okay. Objection. Privileged

19 and work product.

20 I'm going to instruct you not to answer. 13:50:17

21 THE WITNESS: I'm abiding to that, yes.

22 BY MR. TAKASHIMA:

23 Q Thank you.

24 How many lawyers did you speak with when

25 you reported back the first time? 13:50:29

1 A The first time? 13:50:31

2 Q Yes.

3 A Probably one or two. I don't remember,  
4 though.

5 Q Was that in person? 13:50:35

6 A No. I think that was -- I know almost all  
7 my meetings were over VC.

8 Q How long did you speak with them?

9 A I don't recall.

10 Q Was it a 20-minute meeting? 13:50:52

11 A They're typically half-an-hour meetings.  
12 Whether we used the entire time or not, I'm not  
13 sure.  
14 (Question not answered per instruction of counsel):

15 Q Did you discuss with the lawyers what you 13:51:08  
16 were going to do next in your investigation?

17 MR. BAKER: I'm going to object as  
18 privileged and instruct the witness not to answer.

19 I'm happy for him to tell you, you know,  
20 as a technical matter what he did next. But the way 13:51:20  
21 that you phrased the question calls for his  
22 discussions with lawyers.

23 Can you rephrase?

24 BY MR. TAKASHIMA:

25 Q So you're not going to answer that 13:51:33

1 question, correct? 13:51:34

2 A No.

3 (Question not answered per instruction of counsel):

4 Q Okay. Thank you.

5 Did the lawyers give you any directions on 13:51:42

6 what to do next in your investigation?

7 MR. BAKER: I'm going to instruct the

8 witness not to answer on the grounds of privilege

9 and work product.

10 MR. TAKASHIMA: Will you let him answer 13:51:54

11 that question yes or no?

12 MR. BAKER: No.

13 MR. TAKASHIMA: Okay.

14 MR. BAKER: No. I mean, I think your

15 question calls for the substance of the 13:51:59

16 communications.

17 Again, I'm happy for him to testify about

18 any of the, you know, technical aspects of the

19 investigation, what he did, any conclusions that he

20 drew, but I don't think that he should testify about 13:52:12

21 conversations that he had with the attorneys.

22 MR. TAKASHIMA: I understand your

23 objection.

24 Q Okay. After your first preliminary

25 meeting with the lawyers, what did you do next? 13:52:26

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1 files being downloaded to the machine at the same 15:24:58  
2 time as this was plugged in.

3 (Question not answered per instruction of counsel):

4 Q I only want a yes or no answer on this:

5 Have Google attorneys given you any other 15:25:21  
6 information about whether there were files actually  
7 copied to a card in the card reader?

8 MR. BAKER: Objection. Attorney-client  
9 privilege. I'm going to instruct the witness not to  
10 answer. 15:25:30

11 MR. TAKASHIMA: Including a yes or no?

12 MR. BAKER: Yeah.

13 MR. TAKASHIMA: Okay.

14 Q So to the best of your knowledge, leaving  
15 aside anything that you learned only from attorneys, 15:25:39  
16 there is no evidence that files were actually copied  
17 to a card in the card reader, correct?

18 A We saw the files being downloaded to the  
19 system while at the same time as the external drive  
20 was connected to the machine, and that's the extent 15:25:57  
21 of what we could discern due to the fact that the  
22 machine had been reimaged.

23 Q Okay.

24 A We did not have access to that Windows  
25 machine. 15:26:09

1 today, you are not aware of any evidence that 15:29:57

2 Mr. Levandowski copied files off the computer before

3 it was reimaged?

4 MR. BAKER: Objection to form.

5 THE WITNESS: I can only tell you what's 15:30:06

6 in the declaration here, what we see here.

7 BY MR. TAKASHIMA:

8 Q To your knowledge, has there been any

9 investigation of Mr. Levandowski's e-mail account at

10 Google? 15:30:53

11 A I'm not sure.

12 Q To your knowledge, has anybody connected

13 with an investigation reviewed the contents of

14 Mr. Levandowski's e-mail account at Google?

15 A I'm not sure. 15:31:05

16 Q Who would know?

17 A Lawyers.

18 Q Would anybody else in digital forensics

19 know?

20 A Potentially, but probably not. It 15:31:22

21 probably would have been me if that check was made.

22 Q Have you conducted -- been involved in any

23 review of Mr. Levandowski's workstation from Google?

24 A The workstation, no.

25 Q Has anybody else from digital forensics 15:31:42

1 conducted that investigation? 15:31:44

2 A No.

3 Q Has anybody looked at Mr. Levandowski's

4 workstation?

5 A Not to my knowledge. 15:31:49

6 Q Has the workstation been preserved?

7 A Not to my knowledge.

8 Q Okay. Has it been deleted?

9 A I'm not sure. I would have to go check.

10 Q Did you ever discuss with anybody 15:32:07

11 investigating Mr. Levandowski's workstation?

12 MR. BAKER: Again, I just want to caution

13 the witness not to disclose any communications that

14 he's had with attorneys.

15 If you have a question, we can go outside. 15:32:22

16 MR. TAKASHIMA: Do you want to take a

17 break?

18 THE WITNESS: Yes. Let's do that.

19 THE VIDEO OPERATOR: We are now going off

20 the record, and the time is 3:32. 15:32:31

21 (Recess, 3:32 p.m. - 3:39 p.m.)

22 THE VIDEO OPERATOR: We're now going back

23 on the record, and the time is 3:39.

24 BY MR. TAKASHIMA:

25 Q Did you ever discuss with anybody whether 15:39:05

1 to investigate Mr. Levandowski's workstation? 15:39:08

2 A Yes.

3 Q Who did you discuss that with?

4 A At least Gary and Chelsea. Most likely

5 some lawyers as well. 15:39:23

6 Q And did you want to investigate the  
7 workstation?

8 A We asked whether we should.

9 Q And "we" in this case is you and

10 Mr. Brown? 15:39:35

11 A Yes.

12 (Question not answered per instruction of counsel):

13 Q And what were you told?

14 MR. BAKER: I'm going to object. I don't

15 want you to divulge the substance of any 15:39:40

16 attorney-client communications. But with that in

17 mind, you can answer.

18 THE WITNESS: So I should not --

19 MR. BAKER: If you have any questions, we

20 can go back outside. 15:39:56

21 THE WITNESS: But this is done at the

22 direction of counsel, so I --

23 MR. BAKER: Okay. Then I'm going to

24 instruct you not to answer.

25

1       whether or not, because we didn't have the logs that                   15:42:40  
2       would be pointing us towards that.

3               Q     Did Mr. Brown have any inclination one way  
4       or the other as to --

5               A     You would have to ask him.                               15:42:50

6               Q     Did he have any -- did Mr. Brown express  
7       to you whether he thought it would be a good idea to  
8       investigate Mr. Levandowski's workstation?

9               A     I don't remember.

10              Q     Did you discuss with Ms. Bailey whether to               15:43:04  
11       investigate Mr. Levandowski's workstation?

12              A     I do think so, yes.

13              Q     Okay. What did you say?

14              A     "Should we look at his workstation?"

15       (Question not answered per instruction of counsel):               15:43:17

16              Q     Okay. What did she say?

17              MR. BAKER: Objection. I'm going to  
18       object as attorney-client privileged and instruct  
19       the witness not to answer.

20       BY MR. TAKASHIMA:   15:43:24

21              Q     Is Ms. Bailey an attorney?

22              A     Not to my knowledge, but I do believe  
23       there was an attorney present at the time as well.

24       (Question not answered per instruction of counsel):

25              Q     Okay. Did Ms. Bailey express an opinion               15:43:32

1 as to whether Mr. Levandowski's workstation should 15:43:44  
2 be investigated?

3 MR. BAKER: Same objection.

4 Counsel, my understanding is that these  
5 conversations were -- were -- an attorney was 15:43:51  
6 present for these conversations, so I'm going to  
7 object as attorney-client privileged and work  
8 product and instruct the witness not to answer.

9 MR. TAKASHIMA: Okay. You're not going to  
10 allow him to say yes or no? 15:44:04

11 MR. BAKER: I'm sorry?

12 MR. TAKASHIMA: You're not going to allow  
13 him to say yes or no; is that correct?

14 MR. BAKER: What was the question again?

15 MR. TAKASHIMA: The question is -- 15:44:10

16 MR. BAKER: Did Ms. Bailey express an  
17 opinion as to whether Mr. Levandowski's work --  
18 yeah, I'm not going to allow him to answer that  
19 question.

20 MR. TAKASHIMA: Okay. 15:44:18

21 Q If you and Mr. Brown had not received any  
22 input from counsel or Ms. Bailey, would you have  
23 investigated Mr. Levandowski's workstation?

24 MR. BAKER: Hold on one second, Kris.

25 Objection to form. I'll allow you to 15:45:11

1 MR. BAKER: I am instructing him not to 15:46:02  
2 answer the question on the basis of privilege and  
3 work product.

4 BY MR. TAKASHIMA:

5 Q Let's do that once over just cleanly, 15:46:06  
6 understanding that your will counsel will object.

7 A Yes.

8 (Question not answered per instruction of counsel):

9 Q If you and Mr. Brown had not received any  
10 input from counsel or from Ms. Bailey, would you 15:46:16  
11 have investigated Mr. Levandowski's workstation?

12 A Again, I think I will have to decline  
13 answering that based on privilege.

14 MR. TAKASHIMA: Just to be clear, you're  
15 instructing him not to answer that question? 15:46:28

16 MR. BAKER: I am, on the basis that the  
17 question implies certain communications from  
18 counsel, so I don't think he can answer that without  
19 revealing the substance of attorney-client  
20 communications and work product. 15:46:38

21 MR. TAKASHIMA: Okay.

22 MR. BAKER: As I said, though, I'm  
23 happy -- if you want to rephrase the question and  
24 ask it a different way, you might be able to get at  
25 the same information. 15:46:48

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1 Q What else did Mr. Brown do with 15:52:49  
2 Mr. Levandowski's workstation?  
3 A You would have to ask him.  
4 Q Was Mr. Levandowski's workstation imaged?  
5 A No. 15:52:59  
6 Q Why not?  
7 MR. BAKER: Objection. Why don't we step  
8 outside.  
9 THE WITNESS: Okay.  
10 THE VIDEO OPERATOR: Going off the record, 15:53:11  
11 and the time is 3:53.  
12 (Recess, 3:53 p.m. - 3:55 p.m.)  
13 THE VIDEO OPERATOR: We're now going back  
14 on the record, and the time is 3:55.  
15 BY MR. TAKASHIMA: 15:55:26  
16 Q We were discussing Mr. Levandowski's  
17 workstation, right?  
18 A Yes.  
19 Q And you explained that Mr. Levandowski's  
20 workstation was not imaged, correct? 15:55:31  
21 A Not to my knowledge.  
22 Q Why not?  
23 MR. BAKER: Objection to form.  
24 THE WITNESS: I wouldn't know why not.  
25 (Question not answered per instruction of counsel): 15:55:41

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1 BY MR. TAKASHIMA: 15:55:42

2 Q Did you ever discuss with anybody whether

3 to make an image of the workstation?

4 A Again, it goes back to discussions with

5 lawyers. 15:55:49

6 MR. BAKER: I'll instruct the witness not

7 to answer.

8 BY MR. TAKASHIMA:

9 Q Okay. Are there any playbooks within

10 digital forensics that address REDACTED 15:56:14

11 REDACTED

12 REDACTED

13 A Sorry. Can you clarify more what you mean

14 by that?

15 Q Sure. 15:56:27

16 Earlier today, we discussed playbooks.

17 A Yes.

18 Q You have that in mind?

19 A Yes.

20 Q Okay. Are there any playbooks that 15:56:31

21 address REDACTED

22 REDACTED

23 REDACTED

24 A REDACTED

25 Q REDACTED 15:56:45

1 I, the undersigned, a Certified Shorthand  
2 Reporter of the State of California, do hereby  
3 certify:

4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth;  
6 that any witnesses in the foregoing proceedings,  
7 prior to testifying, were administered an oath; that  
8 a record of the proceedings was made by me using  
9 machine shorthand which was thereafter transcribed  
10 under my direction; that the foregoing transcript is  
11 a true record of the testimony given.

12 Further, that if the foregoing pertains to  
13 the original transcript of a deposition in a Federal  
14 Case, before completion of the proceedings, review  
15 of the transcript [ ] was [X] was not requested.

16 I further certify I am neither financially  
17 interested in the action nor a relative or employee  
18 of any attorney or any party to this action.

19 IN WITNESS WHEREOF, I have this date  
20 subscribed my name.

21 Dated: 7/29/2017

22  
23 

24 CARLA SOARES

25 CSR No. 5908